



City of Stuart

A G E N D A
STUART BOARD OF ADJUSTMENT
TO BE HELD JANUARY 28, 2021
AT 5:30 PM

121 SW FLAGLER AVENUE, STUART FL 34994
121 S.W. FLAGLER AVE.
STUART, FLORIDA 34994

BOARD MEMBERS

CHAIR - KRISTIN STANLEY
VICE CHAIR - ANTONE FREITAS
BOARD MEMBER - ALEX GILLEN
BOARD MEMBER - CLAIRE NASH
BOARD MEMBER - CHRISTINA VOGL

ADMINISTRATIVE

DEVELOPMENT DIRECTOR, KEV FREEMAN
BOARD SECRETARY, JORDAN PINKSTON

In compliance with the Americans with Disabilities Act (ADA), anyone who needs a special accommodation to attend this meeting should contact the City's ADA coordinator at 288-5306 at least 48 hours in advance of the meeting, excluding Saturday and Sunday.

If a person decides to appeal any decision made by the Board with respect to any matter considered at this meeting, he will need a record of the proceeding, and that for such purpose he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

CALL TO ORDER

THIS MEETING WILL BE AVAILABLE LIVE VIA ZOOM:

Zoom links and ID information can be found at www.cityofstuart.us/meetings

ROLL CALL

PLEDGE OF ALLEGIANCE

ANNUAL BOARD REORGANIZATION

1. Annual Board of Adjustment Reorganization

APPROVAL OF MINUTES

2. Approval of February 27, 2020 Amended Minutes

3. Approval of May 28, 2020 Minutes

COMMENTS FROM THE PUBLIC (5 min. max)

COMMENTS FROM THE BOARD MEMBERS

OTHER MATTERS BEFORE THE BOARD

4. MEETING DECORUM PRESENTATION
5. Final Order of Variance Approval, requested by Jeffrey Guertin for real property at 1473 SE Andrews Street, PCN #10-38-41-005-059-00320-7, granting approval of a request to place an enclosed pool in the rear yard, with a setback relief from the 15 feet to 6 feet.
6. Final Order of Variance Approval, requested by Dale Alexander for real property at 823 SE St. Lucie Crescent, PCN #05-38-41-001-000-00791-5, granting approval of a request to split the lot into two single family lots, with a lot width of 50 feet, lot area of 6,160 square feet and 10,172 square feet and minimum side setbacks of 5 feet.

STAFF UPDATE

ADJOURNMENT

UPCOMING MEETINGS and EVENTS

**CITY OF STUART, FLORIDA
AGENDA ITEM REQUEST
Board of Adjustment**

Meeting Date: 1/28/2021

Prepared by: Jordan Pinkston

Title of Item:

Annual Board of Adjustment Reorganization

Summary Explanation/Background Information on Agenda Request:

Elect Chair and Vice Chair.

Funding Source:

N/A.

Recommended Action:

Elect Chair and Vice Chair.

**CITY OF STUART, FLORIDA
AGENDA ITEM REQUEST
Board of Adjustment**

Meeting Date: 1/28/2021

Prepared by: Jordan Pinkston

Title of Item:

Approval of February 27, 2020 Amended Minutes.

Summary Explanation/Background Information on Agenda Request:

N/A.

Funding Source:

N/A.

Recommended Action:

Approve.

ATTACHMENTS:

Description	Upload Date	Type
▣ CRB Minutes_2.27.2020 Amended	1/21/2021	Cover Memo



MINUTES

AMENDED

**BOARD OF ADJUSTMENT MEETING
FEBRUARY 27, 2020 AT 5:30 PM
CITY COMMISSION CHAMBERS
121 S.W. FLAGLER AVE.
STUART, FLORIDA 34994**

BOARD OF ADJUSTMENT MEMBERS

**Chair – Kristin Stanley
Vice Chair – Antone (TJ) Freitas
Board Member – Helen McBride
Board Member – Alex Gillen
Board Member – Christina Vogl**

ADMINISTRATIVE

**Development Director, Kev Freeman
Board Secretary, Jordan Pinkston**

CALL TO ORDER

ROLL CALL

Present: Helen McBride, Christina Vogl, Antone Freitas, Kristin Stanley, Alex Gillen

Absent: None.

Alex Gillen sworn in.

ANNUAL BOARD REORGANIZATION

Motion: Reappoint Kristin Stanley as Chair.

Moved by: Helen McBride

Seconded by: TJ Freitas

Motion passed unanimously.

Motion: Reappointed TJ Freitas as Vice Chair

Moved by: Christina Vogl

Seconded by: Helen McBride

Motion passed unanimously.

APPROVAL OF MINUTES

Motion: Action: Approve.

Moved by: Helen McBride

Seconded by: TJ Freitas

Motion passed unanimously.

COMMENTS FROM THE PUBLIC: None.

COMMENTS FROM THE BOARD MEMBERS: None.

OTHER MATTERS BEFORE THE BOARD

1. The applicant is requesting variances to initiate the relocation of the historic Whitegate house. The front of the structure will face the existing Owl house and a variance is necessary to allow a 5.2-foot setback from the newly created property line between the Whitegate house and the Owl House. A variance is also necessary to deviate from the requirement to provide balconies that are required on the waterfront side of a building for a minimum fenestration of 50 percent in the Urban Waterfront zoning district in the City's Community Redevelopment Area. (CRA)

PRESENTATION: Tom Reetz, Senior Planner  5:39 PM

BOARD COMMENT:

Alex Gillen asked if all the considerations have been met.

Mike Mortell said it is the board's responsibility to determine if they have met the criteria.

Alex Gillen asked if there are other areas where the ten-foot setback has been waived.

Tom Reetz gave an example.

Steven Vitale presented the board with historic photos and gave a background of the house and property. He explained why he is restoring it and his restoration plan.

Christina Vogl asked about design layout and location of the restaurant.

Steven Vitale explained the floor plan and design of the home.

Christina asked for confirmation on amount of stories.

Steven Vitale said that it is two stories.

Kristin Stanley asked for confirmation of the placement of the home on the property.

Steven Vitale confirmed the direction of the house.

Christina Vogl asked about a stem wall and sea wall.

Stephen Vitale said that the company he hired is handling the stem wall and the sea wall will stay how it is right now.

Kristin Vogl asked for verification of what would happen to what is currently on the property.

Stephen Vitale explained what he plans on keeping.

Christina Vogl asked about parking.

Stephen Vitale explained where parking would be located.

Christina Vogl asked for confirmation that today all they are all doing is approving the setback request.

Stephen Vitale said that if he cannot do the project then he will be losing money. He discussed the project timeline and would like to close on the building by the end of March, the lot would be prepped in April.

TJ Frietas said that now he split the lot he can sell it and someone can put a brand new building there without historic appeal.

Steven Vitale said the split will probably go away after it is tied into one PUD.

Kev Freeman said that there is a time constraint, and this is the most appropriate way to secure the property.

Alex Gillen asked if he could build anything on the property as it is.

Kev Freeman said that you could if you met the setbacks, but it would be difficult.

Mike Mortell said that the urban district does not have a minimum lot size.

Kev Freeman said we are not approving the use until the UPUD comes online.

Alex Gillen questioned the authorized use and the boards authority to approve it.

Kev Freeman said that we are not authorizing any use, it needs to come in as a UPUD which will need to comply with those uses.

Alex Gillen confirmed that the board is not being asked to authorize the use.

Kristin Stanley asked if we did not approve the variance, would the project still be able to move forward.

Kev Freeman said not under this timeline.

Alex Gillen said that he is not sure how to determine certain aspects, such as cause a detrimental effect with respect to drainage.

Kev Freeman said that it gives you a foundation for moving forward.

Steven Vitale said that everyone has been noticed of the property change.

Helen McBride congratulated the applicant for attempting to save historical homes.

Steven Vitale explained why he thinks it is best to move the home.

Alex Gillen asked about the hardship. He said that he is concerned that they are not operating within the ordinance. He asked if the applicant has access to the city boardwalk.

Steven Vitale said that he believes that each of the property owners gave an easement to the city and they all tapped into the boardwalk. He said that he hasn't given it much thought as to connecting to it.

Alex Gillen asked about drainage on the property and during the move.

Steven Vitale said that during the move there will be no runoff and thinks the property will handle runoff normally.

Tom Reetz said that we will require a drainage plan as part of the application.

Christina Vogl asked about what would happen to the house in the future, such as making it a historic landmark.

Steven Vitale said that he has to do further research about making it a designated historic landmark.

Kristin Vogl said that the lot will remain one lot and will not be able to be sold in separate pieces.

PUBLIC COMMENT:

1. Armond Pasqual (Seminole Street) – Does not support the project due to the variance request. He objected turning the property into a restaurant or bar.

BOARD COMMENT:

Kristin Stanley confirmed that they are not approving the variance from the river, only from the street.

Armond Pasqual apologized for the misunderstanding.

Alex Gillen asked about the procedure if the project was not approved.

Tom Reetz said that you would have a building that was not usable. The CRB would then make their recommendation to city commission.

Kev Freeman said that staff is bringing it forward in this way based on what they have heard from the commission with their interest in maintaining historic buildings and creating a viable downtown. He said as a reassurance to the board we have had a lot of discussion about policy and economic impacts of timelines being met. He said that it is a complex process and has been pushed to the BOA to meet deadlines.

Alex Gillen confirmed that it could become a single family house if the project is not approved.

Motion: Action: Approve.

Moved by: Helen McBride

Seconded by: Alex Gillen

Motion passed unanimously.

STAFF UPDATE: None.

Motion: Action: Adjourn.

Moved by: Christina Vogl

Seconded by: TJ Frieras

Motion passed unanimously.

Kristin Stanley, Chair

Jordan Pinkston, Board Secretary

**CITY OF STUART, FLORIDA
AGENDA ITEM REQUEST
Board of Adjustment**

Meeting Date: 1/28/2021

Prepared by: Jordan Pinkston

Title of Item:

Approval of May 28, 2020 Minutes.

Summary Explanation/Background Information on Agenda Request:

N/A.

Funding Source:

N/A.

Recommended Action:

Approve.

ATTACHMENTS:

Description	Upload Date	Type
BOA Minutes_5.28.2020	1/21/2021	Cover Memo



MINUTES

**BOARD OF ADJUSTMENT MEETING
MAY 28, 2020 AT 5:30 PM
CITY COMMISSION CHAMBERS
121 S.W. FLAGLER AVE.
STUART, FLORIDA 34994**

**BOARD OF ADJUSTMENT MEMBERS
Chair – Kristin Stanley
Vice Chair – Antone (TJ) Freitas
Board Member – Helen McBride
Board Member – Alex Gillen
Board Member – Christina Vogl**

**ADMINISTRATIVE
Development Director, Kev Freeman
Board Secretary, Jordan Pinkston**

CALL TO ORDER 5:31PM

PLEDGE 5:31PM

ROLL CALL

Present (Physically): Helen McBride, Antone Freitas, Kristin Stanley, Alex Gillen

Present (Remotely): Christina Vogl

Absent: None.

APPROVAL OF MINUTES

Motion: Action: Approve with an amendment to page 2: Alex Gillen is not sure how to determine certain aspects, such as cause a detrimental effect with respect to drainage.

Moved by: Helen McBride

Seconded by: Alex Gillen

Motion passed unanimously.

COMMENTS FROM THE PUBLIC (NON-AGENDA ITEMS): None.

COMMENTS FROM THE BOARD MEMBERS:

Kristin Stanley requested that we add the Pledge of Allegiance to the agenda moving forward.

Alex Gillen wanted to thank staff for keeping the Board updated on meetings during this uncertain time.

OTHER MATTERS BEFORE THE BOARD

1. VARIANCE TO REDUCE MINIMUM LOT AREA AND LOT WIDTH. (RC)REQUEST FOR A VARIANCE TO THE CITY'S LAND DEVELOPMENT CODE FOR A REDUCED LOT AREA OF 9,375 SQ.FT (10,000 FT REQUIRED) AND REDUCED LOT FRONTAGE OF 75 FT (100 FT REQUIRED) SITE LOCATED AT 1436 SE LARK BLVD IN THE R-1A ZONING DISTRICT IN ORDER TO ACCOMMODATE A SINGLE FAMILY DWELLING.

PRESENTATION: Kev Freeman, Development Director 5:38PM

BOARD COMMENT:

Kev Freeman clarified the two agenda item edits that needed to be made for the project.

Kristin Stanley questioned why Kev Freeman told the board in an email not to reply all.

Mike Mortell said that was due to Sunshine Law and clarified rules and regulations for board members.

Presentation by Kev Freeman began.

Emails from the public regarding the project were read aloud for the record by Kev Freeman. 5:50PM

Kev explained the analysis he received from the applicant.

Kristin Stanley asked for confirmation about the lot size. She asked if there was disclosure of the zoning when they purchased the lot.

Kev Freeman confirmed that he believes there was full disclosure.

Mike Mortell clarified how they are meeting setbacks.

Kristin Stanley asked about the process of the board receiving public comment emails.

Mike Mortell clarified the process.

Discussion occurred about the amount of density allowed in each zoning requirement and what falls within the comprehensive plan.

Kristin Stanley asked for clarification about why the application was brought before the board.

Christina Vogl asked for clarification on why the lot exists if they can't build on it.

Mike Mortell clarified that a prior owner carved it off and gave an example.

Alex Gillen asked for confirmation on the emails that were presented to the board. He asked for clarification on non-conforming properties in the area and the layout of neighboring properties.

Kev Freeman said that it probably happened over time and discussed property layouts in the area.

Alex Gillen asked if we have heard from two neighboring property owners.

Kev Freeman said that staff has not to their knowledge.

Alex Gillen asked for the definition of hardship.

Kristin Stanley requested a meeting regarding hardship.

Kev Freeman said that staff is currently working on how to process variance requests and this subject with commission. He gave examples of why this has been an issue and difficult subject.

Mike Mortell read section 8.05.02 of the code and explained the current process the City has in place.

Kristin Stanley asked that we attach that portion of the code to the agenda for easy reference in the future.

Helen McBride confirmed that it was already included in the agenda.

Alex Gillen requested the definition of hardship.

Mike Mortell read the definition of hardship from the code 8.02.01 along with examples.

Helen McBride said that she has lived on Flamingo Avenue for many years and in the past, they would not ask for approval they would just do it.

TJ Frietas asked for confirmation of zoning requirements.

Kev Freeman confirmed zoning came from the applicant.

Christina Vogl explained the problem before the board and the neighboring lots reason for opposing the proposal.

Mike Mortell explained the property layout on a map.

Discussion occurred about the hardships for this project and the lot split.

The applicant's Nannette Walsh and Jefferey Walsh spoke on behalf of their request. She expressed why she wants to live in the City of Stuart and on the property they purchased. The applicant said that the contract for the property is contingent on the building being approved.

Alex Gillen asked how they would respond to their neighbors opposing the project.

Nannette Walsh explained who her neighbors are and said that she has been in contact with them, but they are not willing to allow them to purchase a small portion of their side lot to make theirs compliant.

Kristin Stanley asked for confirmation that they plan on living in the home themselves.

Nannette Walsh confirmed that this will be their forever home.

PUBLIC COMMENT: 6:45PM

1. Paula Nicoletti (SE Lark) – Neighbor that owns a home across the street. She said that they would welcome them as neighbors and thinks it is selfish of those who do not want anyone to build on the lot.
2. Dan Kushner (221 Martin) – Appreciates the presentation to better understand the proposal. He no longer objects to the request now that he has more facts about the property. He asked that another house not be able to be built on the corner lot in the future.

BOARD COMMENT:

Discussion occurred about the current measurements of the lots and what neighbors can place on their property.

Clarification was made on what the board was voting on today.

PUBLIC COMMENT: None.

Motion: Action: Approve.
Moved by: Helen McBride
Seconded by: Alex Gillen
Motion passed unanimously.

STAFF UPDATE: None.

Motion: Action: Adjourn. 6:56PM

Kristin Stanley, Chair

Jordan Pinkston, Board Secretary

CITY OF STUART, FLORIDA AGENDA ITEM REQUEST Board of Adjustment

Meeting Date: 1/28/2021

Prepared by: Mary Kindel, City Clerk

Title of Item:

MEETING DECORUM PRESENTATION

Summary Explanation/Background Information on Agenda Request:

The City Clerk will provide a brief presentation titled "Meeting Decorum; Moderating Meeting Disruptions". This presentation will review suggestions on how boards should handle various disruptions during public meetings, both in person and virtually.

Funding Source:

N/A

Recommended Action:

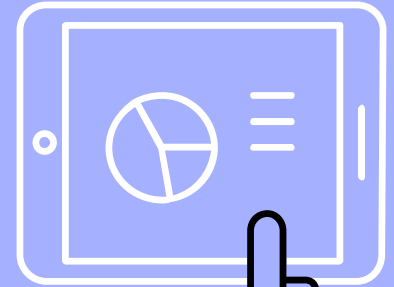
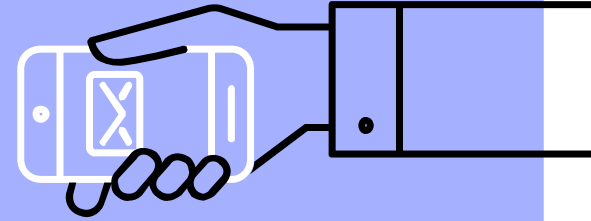
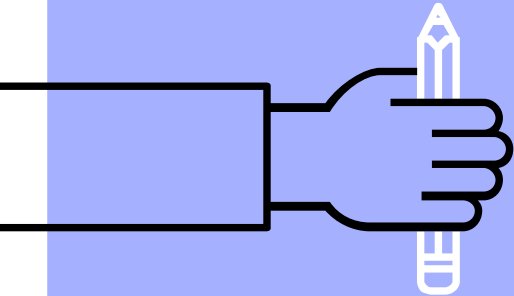
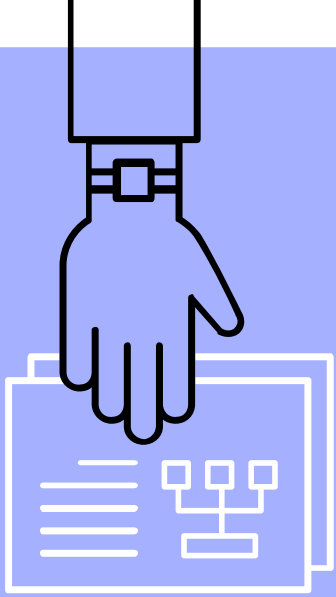
N/A

ATTACHMENTS:

Description	Upload Date	Type
□ Meeting Decorum Presentation	10/16/2020	Presentation

MEETING DECORUM

MODERATING MEETING
DISRUPTIONS



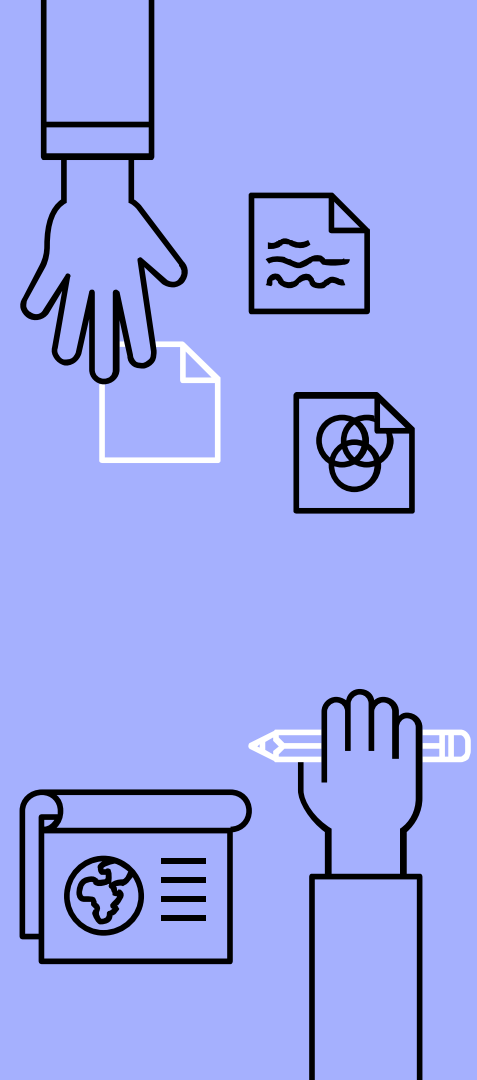
COMMISSION MEETINGS AND ADVISORY BOARD MEETINGS

- Open to the Public
- Public Comment
- In Person
- Zoom Telecommunications

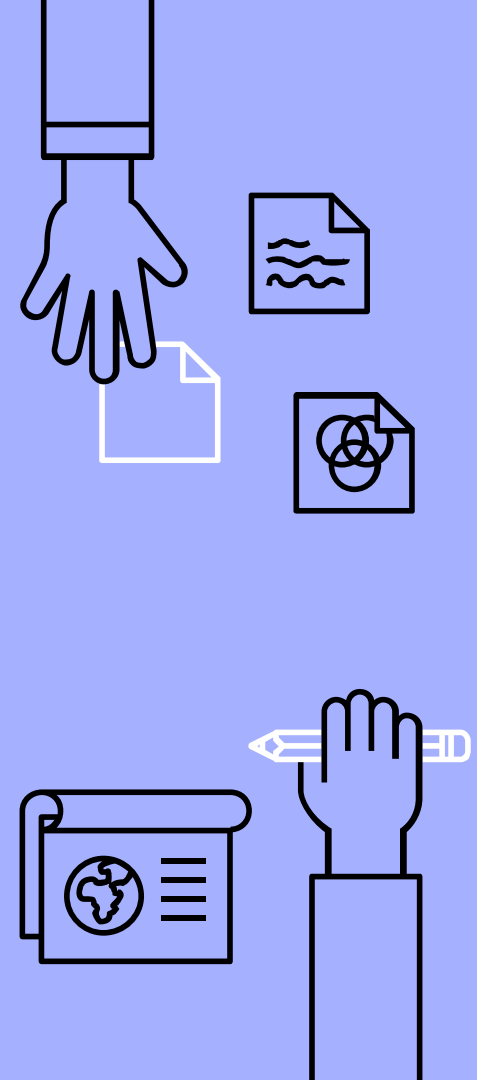


Definitions

- ▶ **“Disruptive conduct”** includes addressing the commission or board without first being recognized; not addressing the subject before the board; repetitiously addressing the same subject, shouting at or threatening the members of the commission or board in a manner which makes it difficult or impossible to maintain decorum, or which places the members of the board in fear for their lives or safety or safety of other persons in attendance of the meeting; failing to relinquish the podium when requested to do so, or otherwise preventing the meeting from continuing in an orderly manner.
- ▶ **“Sergeant at Arms”** for a public meeting is an official of a legislative assembly whose duty includes maintaining order and security.



- ▶ **“Willful disruption”** of a public meeting shall mean persistent disruptive conduct, after a verbal warning has been issued by the presiding officer; or conduct which is violent and which immediately jeopardizes the public health and safety.
- ▶ **“Civility”** is caring about one's identity, needs and beliefs without degrading someone else's in the process. Civility is more than merely being polite. Civility requires staying "present" even with those persons with whom we have deep-rooted and perhaps strong disagreements. It is about constantly being open to hear, learn, teach and change. It seeks common ground as a beginning point for dialogue. It is patience, grace, and strength of character. Civility is practiced in our City Hall.



“





BALANCING THE FIRST AMENDMENT AT PUBLIC MEETINGS

When “public comment” is offered during an open meeting, a citizen may exercise their First Amendment rights. The government may not silence speakers on the basis of their viewpoint or the content of their speech.



Public Comment & Motions

- ▶ **Prior** to a Motion, and at the **discretion** of the Chair, public comments **may** be heard for discussion purposes. (Not necessary)

AND AGAIN...

- ▶ Before Motion vote is called, Public Comment **must** be offered.
- ▶ Pros & Cons
 - input prior to motion
 - prolonged meetings
 - increased frustration; person not to speak twice on same topic.

Robert's Rules
of Order

"I move that..."

"I propose that..."

"Second"

Parliamentary
Procedure

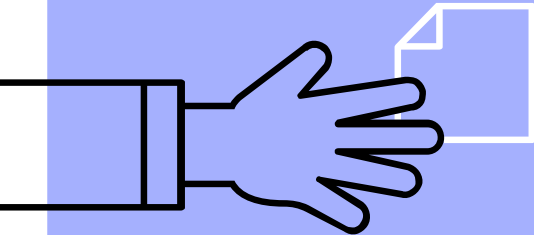
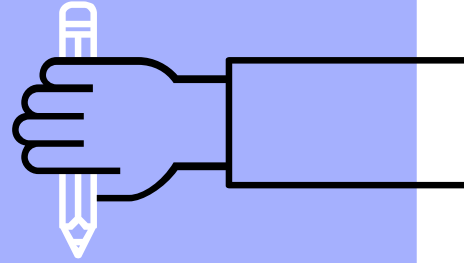
Public Comment Guidelines

- ▶ Be consistent.
- ▶ Keep public comment to the 5-minute maximum for all.
- ▶ Comments only; this is not a time to debate or participate in a question and answer exchange.



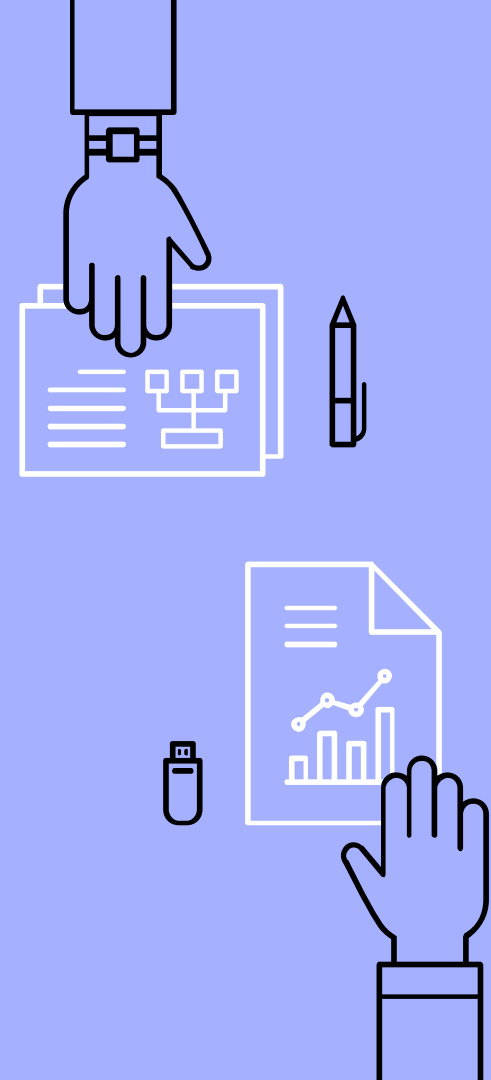
HOW TO HANDLE MEETING DISRUPTIONS

Let's start with "In Person"



DISRUPTION OCCURS, NOW WHAT?

- ▶ Above all – keep your **cool**!
- ▶ Chair to immediately **STOP** the meeting by calling a brief **recess**. A recess will provide you time to gather your thoughts.
- ▶ Following the recess, Chair must immediately **address the situation** among fellow board members and the audience.
- ▶ **Apologize** for the disruption/offensiveness.
“On behalf of the City of Stuart/Board, we are sorry for the disruption...”



IF BULLYING, INTIMIDATION, OR THREATENING ACTION OCCURS

- ▶ Politely remind the person of the **civility policy** and ask them to save their comments until the **end** of meeting.
- ▶ Sergeant of Arms may **escort** the person out.
- ▶ Call **authorities**.
- ▶ Last resort – **suspend** the meeting.

ACTIVE THREAT, **CALL 911**



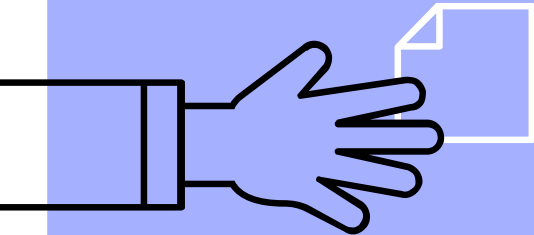
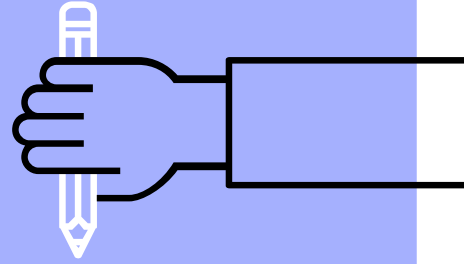
Behaviors to Actions

BEHAVIOR	Disruptive ▶ Bullying, Intimidation ▶ Losing Composure, Angry ▶ Threatening ▶ An Active Threat!			
RISK LEVEL	SAFE, BUT DISRUPTIVE		SAFETY MAY BE AT RISK	
	SAFETY <u>IS</u> AT RISK!			
ACTION	MTG FACILITATION	CALL NON-EMERGENCY NO.	CALL 911, END MTG	RESPOND



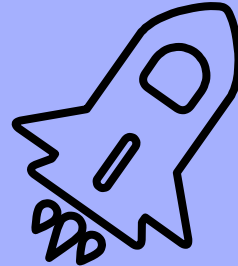
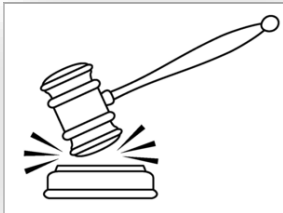
HOW TO HANDLE MEETING DISRUPTIONS

Let's Zoom!



Zoom

- ▶ Keep your **cool**!
- ▶ Immediately **STOP** the meeting by calling a brief **recess**. A recess will provide you time to gather your thoughts.



ZOOM DISRUPTION

- ▶ Following the recess, Chair must immediately **address the situation** among fellow board members and the audience.
- ▶ **Apologize** for the disruption or any offensive behavior/comments.
- ▶ Remind audience of the **open government** meetings and that people are **not restricted** from logging into the meeting via ZOOM.

Suggested statement: *“On behalf of the City of Stuart Commission/Board, we are sorry for the disruption (name the incident that occurred).”*



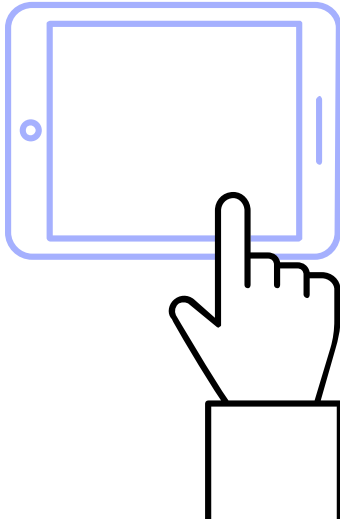
BE PREPARED

A MEETING
DISRUPTION
CAN HAPPEN
AT ANY TIME



Zoom Telecommunications

The City of Stuart is happy to offer Zoom Telecommunications as an additional resource to increase government transparency and convenience for its residents. Zoom Public Meeting links are available on meeting agendas and the City's website at www.CityofStuart.us



REFERENCES

- ▶ Quality Cities Publication, Moderating Public Comment by Scott C. Paine
- ▶ Disruption of Public Meetings, Highland, CA
- ▶ Making a Safe Space: Spectrum of Disruption & Incivility, Washington County
- ▶ Freedom Forum Institute



CITY OF STUART, FLORIDA AGENDA ITEM REQUEST Board of Adjustment

Meeting Date: 1/28/2021

Prepared by: Stephen Mayer

Title of Item:

Final Order of Variance Approval, requested by Jeffrey Guertin for real property at 1473 SE Andrews Street, PCN #10-38-41-005-059-00320-7, granting approval of a request to place an enclosed pool in the rear yard, with a setback relief from the 15 feet to 6 feet.

Summary Explanation/Background Information on Agenda Request:

The existing residence at 1473 SE Andrews Street is currently in conformance with the City's zoning code. A survey of the property is attached as Exhibit 1. The owner, Jeffrey Guertin, is requesting relief from the minimum rear setback of 15 feet, in order to place an enclosed pool in the rear yard, avoiding a sewer line that transects the rear yard. The proposed location of the pool with the rear setbacks indicated are attached as Exhibit 2. The location of the shallow sewer line is demonstrated on the survey, attached as Exhibit 3. The applicant will provide testimony that indicates the requested setback relief is the minimum relief necessary to build a standard pool enclosure in the rear yard. The applicant has provided a justification statement which summarizes the request and the hardship, and is attached as Exhibit 4.

Funding Source:

N/A

Recommended Action:

Consider approval of the Final Order to grant relief from the minimum rear setback from 15 feet to 6 feet in order to place an enclosed pool in the rear yard, conditioned upon the restrictions herein.

ATTACHMENTS:

Description	Upload Date	Type
❑ A1. Final Order	1/15/2021	Exhibit
❑ A2. Exhibit 1 - Survey	1/15/2021	Exhibit
❑ A3. Exhibit 2. Proposed Plan	1/15/2021	Exhibit
❑ A4. Exhibit 3 - Survey with sewer line	1/15/2021	Exhibit
❑ A5. Exhibit 4 - Justification Statement	1/15/2021	Exhibit

Return to:
City Attorney
City of Stuart
121 SW Flagler Avenue
Stuart, FL 34994

**BEFORE THE BOARD OF ADJUSTMENT
CITY OF STUART, FLORIDA**

Case #Z20110003

In re: The Code Variance Application of
Jeffrey Ryan Guertin Residence
1473 SE Andrews Street
10-38-41-005-059-00320-7

FINAL ORDER OF VARIANCE APPROVAL

THIS CAUSE came for hearing before the Board of Adjustment for the City of Stuart, Florida, at a regular set hearing at **5:30 PM on January 28, 2021**, at the City Commission Chambers, 121 S.W. Flagler Avenue, Stuart, Florida; and the Board, having considered the sworn testimony and other evidence presented by the City staff, the Petitioner, and any Interveners, finds as follows:

1. Notice of the hearing was provided as required by the Stuart Land Development Code (LDC). Notice was not challenged by any party at the hearing, and the Board of Adjustment has jurisdiction over this case as provided in the Sec. 8.05.01, LDC.

2. The City was represented by **Stephen Mayer**, Senior Planner, and the applicant was represented by **Jeffrey Guertin**, Petitioner, all in attendance.

3. **Stephen Mayer**, of the City Development Department, testified on behalf of the City that the Petitioner, Jeffrey Guertin, the title owner of the real property having **PCN # 10-38-41-005-059-00320-7**, (hereinafter the "Subject Property"), who has provided a sketch and legal description as found within and attached as **'Exhibit 1'**, in order to receive relief from the rear setback to an enclosed pool structure.

4. **Stephen Mayer** indicated the Subject Property is located at **1473 SE Andrews Street, Stuart, Florida**, and is zoned **R-1 (Residential, Single Family)**, with a Future Land Use designation of Residential Low Density. The Future Land Use and Zoning categories were not challenged by any party at the hearing.

5. The existing residence is currently in compliance with zoning code. The Petitioner desires to develop the Subject Property in substantial conformance with the proposed pool enclosure plan, and attached as **"Exhibit 2"** of this document.

6. The Petitioner gave verbal testimony indicating a desire to request the minimum variance required to place an enclosed pool in the rear yard, and avoid building

FINAL ORDER OF VARIANCE APPROVAL – Jeffrey Guertin Residence – 1473 SE Andrews Street

the pool over a shallow sewer line that runs diagonally through a portion of the yard. The demonstration of the location of the sewer line is attached as **“Exhibit 3”**.

7. The Petitioners requested in writing the following reductions to the minimum code requirements at the hearing to allow for the:

- The minimum rear setback shall be reduced from required 15 feet to 6 feet.

8. **Stephen Mayer** gave testimony and analyzed the case, and indicated the petition is consistent with the City's Comprehensive Plan, meets the procedural requirements of the law. The testimony concluded by recommending that the board of adjustments consider the Final Order to allow for the variance, subject to the following conditions:

- The placement of the enclosed pool shall conform to the Proposed Plan, as depicted in **“Exhibit 2”**.
- The Subject Property is granted a relief from the Land Development Code as demonstrated in the table below:

Land Development Regulations vs Variance Request	
R-1 Requirements	Proposed Development Standards
Rear Setback – 15 feet	Rear Setback – 6 feet

9. Construction in substantial conformance with the Proposed Plan, attached as **“Exhibit 2”** of this document, along with all other required documents for permitting, shall be submitted for Building Permit review. The building permit documents shall ensure there is no storm water run-off on adjacent properties.

10. If the enclosed pool and final inspection is not performed by **February 1, 2022**, the variance relief granted in this **Final Order shall be void**.

11. All applicable state or federal permits must be obtained before the commencement any development activities. Issuance of this development order/permit/approval by the City of Stuart does not in any way create any right on the part of an applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the City of Stuart for the issuance of this order/permit/approval if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law.

12. All subsequent Lessees and Owners shall be bound to the terms of this Variance, and this Variance shall carry forward and “run with the land” unless later released by the City Development Director, or as otherwise provided by law.

FINAL ORDER OF VARIANCE APPROVAL – Jeffrey Guertin Residence – 1473 SE Andrews Street

15. At the conclusion of the evidence and any follow up questioning by the Board Members, brief summaries were made by the Petitioner. The Board then entered into deliberation, and discussed the following:

Board Member _____ offered a motion to approve the variance(s). The motion was seconded by Board Member _____ and upon being put to a roll call vote, the vote was as follows:

**KRISTIN STANLEY, CHAIR
ANTONE (TJ) FREITAS, VICE CHAIR
ALEX GILLEN, MEMBER
CHRISTINA VOGL, MEMBER
CLAIRE Y NASH, MEMBER**

YES	NO	ABSENT

ADOPTED this ____ day of _____, 2021.

ATTEST:

By: _____
JORDAN PINKSTON, BOARD SECRETARY

KRISTIN STANLEY, CHAIR

APPROVED AS TO FORM AND CORRECTNESS:

MIKE MORTELL
CITY ATTORNEY

FINAL ORDER OF VARIANCE APPROVAL – Jeffrey Guertin Residence – 1473 SE Andrews Street

ACCEPTANCE AND AGREEMENT

BY SIGNING THIS ACCEPTANCE AND AGREEMENT, THE UNDERSIGNED HEREBY ACCEPTS AND AGREES TO ALL OF THE TERMS AND CONDITIONS CONTAINED IN THE FOREGOING FINAL ORDER, AND ALL EXHIBITS, ATTACHMENTS AND DEVELOPMENT DOCUMENTS, INTENDING TO BE BOUND THEREBY, AND THAT SUCH ACCEPTANCE AND AGREEMENT IS DONE FREELY, KNOWINGLY, AND WITHOUT ANY RESERVATION, AND FOR THE PURPOSES EXPRESSED WITHIN THE FOREGOING FINAL ORDER. IN WITNESS WHEREOF THE UNDERSIGNED HAS EXECUTED THIS ACCEPTANCE AND AGREEMENT:

WITNESSES:

Witness #1:

Print Name: _____

JEFFREY GUERTIN,

Owner

Signature: _____

Signature: _____

Witness #2:

Print Name: _____

Signature: _____

OWNERS ACKNOWLEDGMENT

Sworn to (or affirmed) and subscribed before me by means of ☐ physical presence or ☐ online notarization, this ____ day of _____, 20____ by _____

Personally Known OR Produced Identification

Type of Identification Produced _____

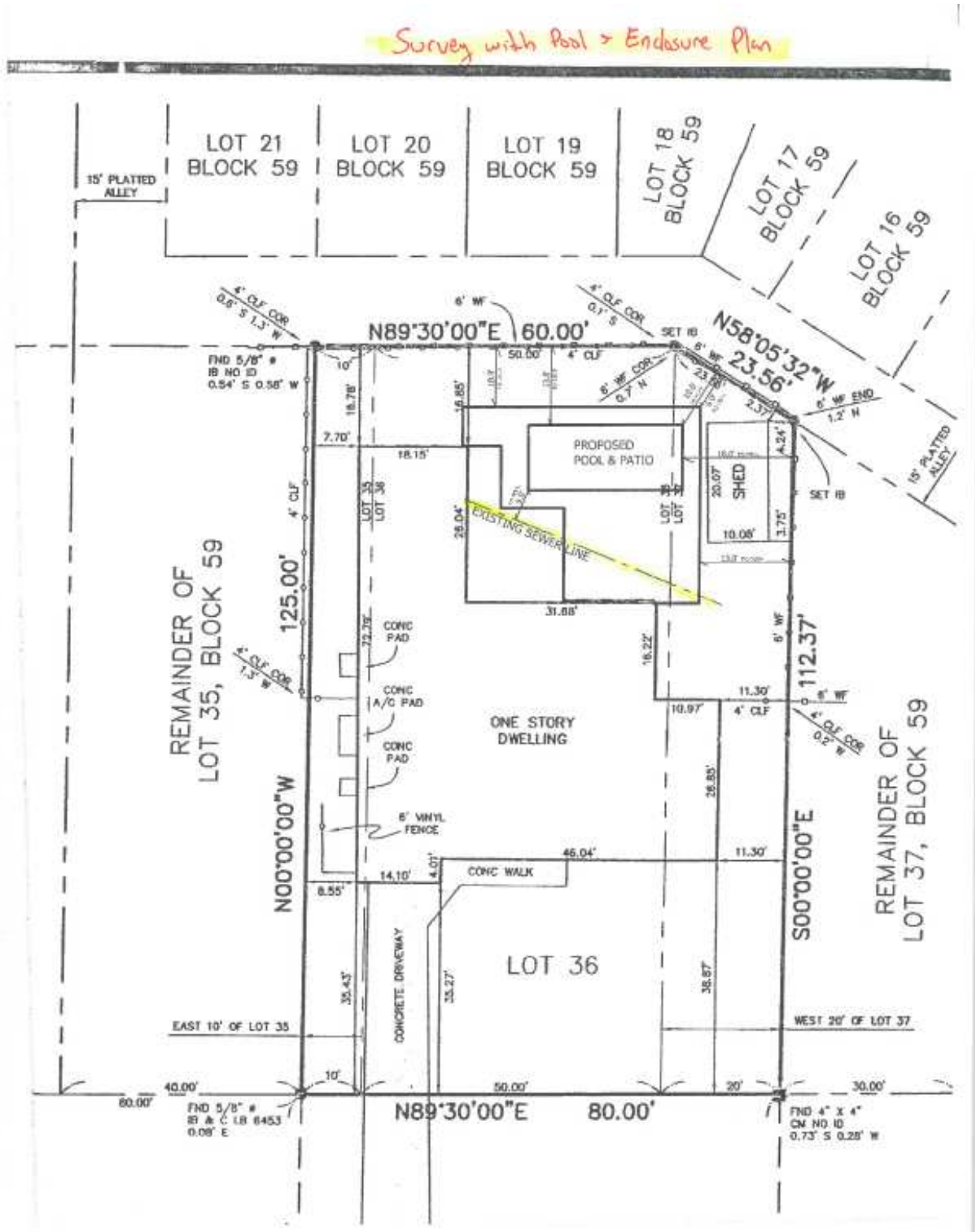
Signature of Notary Public: _____

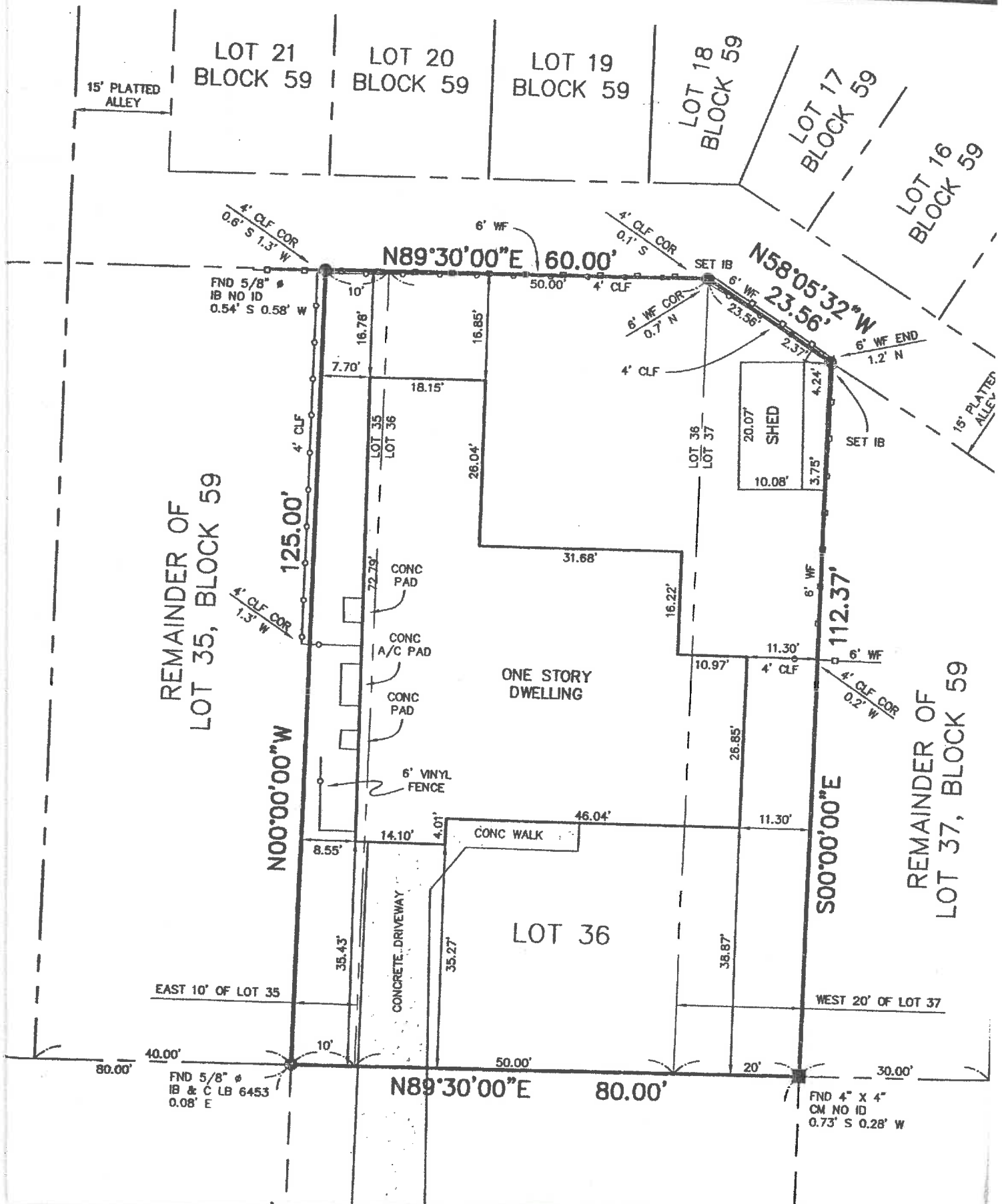
Commission Expires:

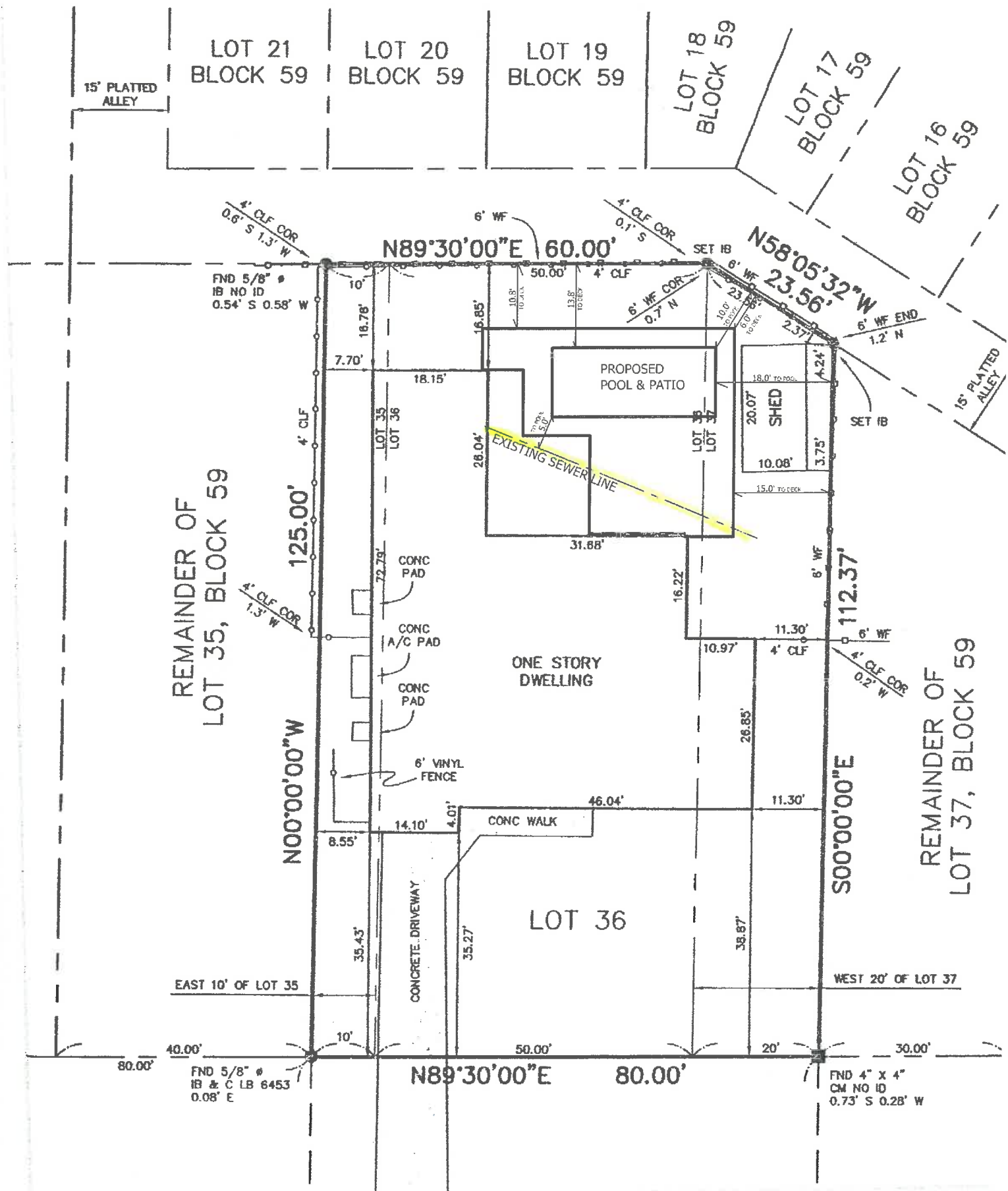
Notary Seal:

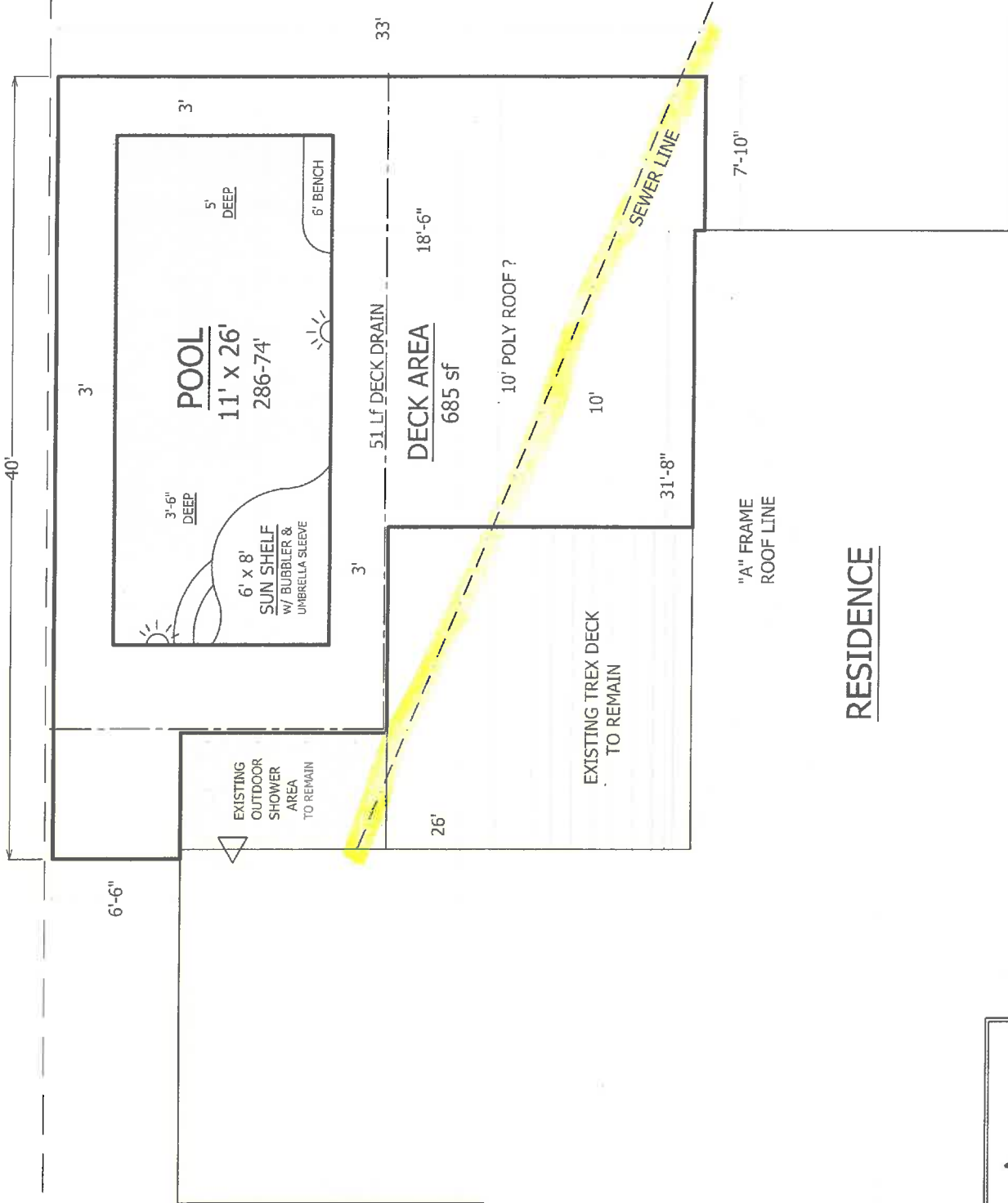
FINAL ORDER OF VARIANCE APPROVAL – Jeffrey Guertin Residence – 1473 SE Andrews Street

‘Exhibit 2’ Proposed Conceptual Plan









REVISED
10-30-2020

CONCEPT PLAN for :
GUERTIN RESIDENCE
1473 SE. ANDREWS STREET
CITY of STUART, FL 34996



Steve R Design c 772-528-6437

November 23, 2020

City of Stuart Development Department
121 SW Flagler Ave
Stuart FL 34994

To whom it may concern,

This letter of intent is in support of my request for a variance to the rear yard setback requirements for screened-in enclosures in R1 zoning. My wife and I are looking to build a pool with a screened in enclosure in our back yard. The reason for our request of variance is as follows:

There is a 3in diameter sewer line that runs diagonally from the residence and through the yard to the east, where it then turns and heads towards the front yard and connects to the street. Please see attached pool drawings for the rough location of the sewer line.

This sewer line is very shallow due to the proper pitch needed for sewage and the long distance it needs to travel to connect to the main sewer lines. It is roughly even with ground level at the house, and slowly goes underground (about 1 in deeper for every 4 feet of pipe length). All of the pool companies we have consulted say that pool patio/decking should not built over this sewer line until it is at least 6-8 inches below the surface of the ground.

All of the pool companies I have spoken with also say that they "overdig" when building pools, and then backfill, and the recommended distance to stay away from structures without risk of undermining them is roughly 5 feet. Therefore, any pool and patio construction needs to be pushed further back from the house and the existing sewer line so as to prevent any potential undermining of the line.

Please see the attached pool drawings from Alexander Pools for the proposed location of the pool and enclosure superimposed upon my survey. The proposed location for the screened-in enclosure would be ~10 feet from my rear property line to the north and ~6 feet from the diagonal property line on the northeast of my property.

After speaking with a few plumbers, re-routing or moving the sewer line would be extremely expensive and a cost prohibitive hardship for our project, and therefore we are requesting this setback variance as we see no other alternatives.

In addition, as you can see in my attached survey, there is a 15' alley behind our residence, and therefore I don't believe the screen enclosure would result in any burden to our neighbors.

I appreciate your consideration in this matter. If there are any questions, I can be reached at jguertin@gmail.com or (401) 374-4658.

Sincerely,



Jeffrey Guertin
1473 SE Andrews St
Stuart, FL 34996

CITY OF STUART, FLORIDA AGENDA ITEM REQUEST Board of Adjustment

Meeting Date: 1/28/2021

Prepared by: Stephen Mayer

Title of Item:

Final Order of Variance Approval, requested by Dale Alexander for real property at 823 SE St. Lucie Crescent, PCN #05-38-41-001-000-00791-5, granting approval of a request to split the lot into two single family lots, with a lot width of 50 feet, lot area of 6,160 square feet and 10,172 square feet and minimum side setbacks of 5 feet.

Summary Explanation/Background Information on Agenda Request:

The vacant lot at 823 St. Lucie Crescent obtained a Final Order approval on May 28, 2015, to allow a variance to lot width and setbacks. Because the previous petitioner did not obtain a Parcel Control number by November 28, 2015, the previous variance was void. The previous variance Final Order is attached as Exhibit 5.

The new petitioner, Dale Alexander, requests a partially different variance request, with a modified lot line and area dimensions. A warrantee deed and legal description of the property is attached as Exhibit 1. The owner, Sale Alexander, is requesting relief from the minimum lot width, lot area and minimum side setbacks, in order to split the single conforming lot into two non-conforming sized lots.

A survey showing the proposed lot split is attached as Exhibit 2. The survey also shows a potential building footprint for Lot 1. Lot 2 remains vacant and does not have a specific commitment for building location, size, or style. The applicant will provide testimony that indicates the requested lot width, area dimension and setback relief is the minimum relief necessary to split the lot into two buildable single family lots. The applicant has provided a justification statement which summarizes the request and the hardship, and is attached as Exhibit 4.

Funding Source:

N/A

Recommended Action:

Consider approval of the Final Order to grant relief from the minimum lot width from 75 to 50 feet, minimum lot area from 7,500 square feet to at least 6,160 square feet and side setback from 7.5 feet to 5 feet in order to split the single lot into two single family lots., conditioned upon the restrictions herein.

ATTACHMENTS:

Description	Upload Date	Type
❑ A1. Final Order	1/15/2021	Exhibit
❑ A2. Exhibit 1 - Warrantee Deed	1/15/2021	Exhibit
❑ A3. Exhibit 2. Proposed Plans	1/15/2021	Exhibit
❑ A4. Exhibit 3 - Proposed survey with lot split	1/15/2021	Exhibit
❑ A5. Exhibit 4 - Justification Statement	1/15/2021	Exhibit
❑ B1. Exhibit 5 - Mike Braid Final Order May 2015	1/15/2021	Backup Material

▣ D1. Extract from LDC - Variances

1/15/2021

Backup
Material

Return to:
City Attorney
City of Stuart
121 SW Flagler Avenue
Stuart, FL 34994

**BEFORE THE BOARD OF ADJUSTMENT
CITY OF STUART, FLORIDA**

Case #Z21010002

In re: The Code Variance Application of
Dale E. Alexander
823 SW St. Lucie Crescent
05-38-41-001-000-00791-5

FINAL ORDER OF VARIANCE APPROVAL

THIS CAUSE came for hearing before the Board of Adjustment for the City of Stuart, Florida, at a regular set hearing at **5:30 PM on January 28, 2021**, at the City Commission Chambers, 121 S.W. Flagler Avenue, Stuart, Florida; and the Board, having considered the sworn testimony and other evidence presented by the City staff, the Petitioner, and any Interveners, finds as follows:

1. Notice of the hearing was provided as required by the Stuart Land Development Code (LDC). Notice was not challenged by any party at the hearing, and the Board of Adjustment has jurisdiction over this case as provided in the Sec. 8.05.01, LDC.

2. The City was represented by **Stephen Mayer**, Senior Planner, and the applicant was represented by **Dale Alexander**, Petitioner, all in attendance.

3. **Stephen Mayer**, of the City Development Department, testified on behalf of the City that the Petitioner, Dale Alexander, the title owner of the real property having **PCN #05-38-41-001-000-00791-5**, (hereinafter the "Subject Property"), who has provided a warrantee deed and legal description as found within and attached as '**Exhibit 1**', in order to split the lot into two non-conforming lots and request setback relief.

4. **Stephen Mayer** indicated the Subject Property is located at **823 SW St. Lucie Crescent, Stuart, Florida**, and is zoned **R-1 (Residential, Single Family)**, with a Future Land Use designation of Residential Low Density. The Future Land Use and Zoning categories were not challenged by any party at the hearing.

5. The existing residence is currently vacant. The Petitioner desires to develop the Subject Property by splitting it into two single family lots, both of which are non-conforming in size, and apply smaller minimum side setbacks, as demonstrated in the proposed survey and attached as "**Exhibit 2**" of this document.

6. The Petitioner gave verbal testimony indicating a desire to request the

FINAL ORDER OF VARIANCE APPROVAL – Dale Alexander lot – 823 SW St. Lucie Crescent

minimum variance required to split the lot into two buildable lots. The proposed lots would require the following relief from code: both lots are proposed with a lot width of 50 feet, when 75 feet is the code minimum; one lot is proposed to be 6,160 square feet, when 7,500 square feet is the code minimum, and both lots are proposed to maintain a minimum side setback for all structures of 5 feet, when 7.5 feet is the code minimum. The proposed floor plan and front elevation sketch of the Dale Alexander residence on the larger lot is attached as **“Exhibit 3”**.

7. The Petitioners requested in writing the following reductions to the minimum code requirements at the hearing to allow for the:

1. The minimum lot width shall be reduced from required 75 feet to 50 feet for Lot 1 and 2;
2. The minimum lot area shall be reduced from the required 7,500 square feet to 6,160 square feet for Lot 1; and
3. The minimum side setback for all structures from the required 7.5 feet to 5 feet for Lot 1 and 2.

8. **Stephen Mayer** gave testimony and analyzed the case, and indicated the petition is consistent with the City's Comprehensive Plan, meets the procedural requirements of the law. The testimony concluded by recommending that the board of adjustments consider the Final Order to allow for the variance, subject to the following conditions:

- a. The new lots will conform to the Proposed Survey, as depicted in **“Exhibit 2”**.
- b. The Subject Property is granted a relief from the Land Development Code as demonstrated in the table below:

Land Development Regulations vs Variance Request	
R-1 Requirements	Proposed Development Standards
Minimum Lot Width – 75'	Minimum Lot Width – 50'
Minimum Lot Area – 7,500 square feet	Minimum Lot Area – 6,160 square feet
Side Setback – 7.5'	Side Setback – 5'

9. Construction of Lot 1 shall be in substantial conformance with the Proposed Plans, attached as **“Exhibit 3”** of this document, along with all other required documents for permitting, shall be submitted for Building Permit review. The building permit documents shall ensure there is no storm water run-off on adjacent properties.

10. Parcel control numbers shall be assigned to each lot by the Martin County's property appraiser by January 1, 2022, otherwise the variance relief granted in this Final Order shall be void.

FINAL ORDER OF VARIANCE APPROVAL – Dale Alexander lot – 823 SW St. Lucie Crescent

11. All applicable state or federal permits must be obtained before the commencement any development activities. Issuance of this development order/permit/approval by the City of Stuart does not in any way create any right on the part of an applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the City of Stuart for the issuance of this order/permit/approval if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law.

12. All subsequent Lessees and Owners shall be bound to the terms of this Variance, and this Variance shall carry forward and “run with the land” unless later released by the City Development Director, or as otherwise provided by law.

15. At the conclusion of the evidence and any follow up questioning by the Board Members, brief summaries were made by the Petitioner. The Board then entered into deliberation, and discussed the following:

Board Member _____ offered a motion to approve the variance(s). The motion was seconded by Board Member _____ and upon being put to a roll call vote, the vote was as follows:

KRISTIN STANLEY, CHAIR
ANTONE (TJ) FREITAS, VICE CHAIR
ALEX GILLEN, MEMBER
CHRISTINA VOGL, MEMBER
CLAIRE Y NASH, MEMBER

YES	NO	ABSENT

ADOPTED this ____ day of _____, 2021.

ATTEST:

By: _____
JORDAN PINKSTON, BOARD SECRETARY

KRISTIN STANLEY, CHAIR

APPROVED AS TO FORM AND CORRECTNESS:

MIKE MORTELL
CITY ATTORNEY

FINAL ORDER OF VARIANCE APPROVAL – Dale Alexander lot – 823 SW St. Lucie Crescent

ACCEPTANCE AND AGREEMENT

BY SIGNING THIS ACCEPTANCE AND AGREEMENT, THE UNDERSIGNED HEREBY ACCEPTS AND AGREES TO ALL OF THE TERMS AND CONDITIONS CONTAINED IN THE FOREGOING FINAL ORDER, AND ALL EXHIBITS, ATTACHMENTS AND DEVELOPMENT DOCUMENTS, INTENDING TO BE BOUND THEREBY, AND THAT SUCH ACCEPTANCE AND AGREEMENT IS DONE FREELY, KNOWINGLY, AND WITHOUT ANY RESERVATION, AND FOR THE PURPOSES EXPRESSED WITHIN THE FOREGOING FINAL ORDER. IN WITNESS WHEREOF THE UNDERSIGNED HAS EXECUTED THIS ACCEPTANCE AND AGREEMENT:

WITNESSES:

Witness #1:

Print Name: _____

DALE ALEXANDER,

Owner

Signature: _____

Signature: _____

Witness #2:

Print Name: _____

Signature: _____

OWNERS ACKNOWLEDGMENT

Sworn to (or affirmed) and subscribed before me by means of ☐ physical presence or ☐ online notarization, this ____ day of _____, 20____ by _____

Personally Known OR Produced Identification

Type of Identification Produced _____

Signature of Notary Public: _____

Commission Expires:

Notary Seal:

FINAL ORDER OF VARIANCE APPROVAL – Dale Alexander lot – 823 SW St. Lucie Crescent

'Exhibit 1' Warrantee Deed with Legal



Carolyn Timmann, Clerk of the Circuit Court & Comptroller
 Rec Fees: \$18.50 Deed Tax: \$1,750.00
 CFN#2847459 BK 3170 PG 665 PAGE 1 of 2

Prepared by and return to:

Robert A. Burson
 Attorney at Law
 Robert A. Burson, P.A.
 Post Office Box 1620
 Stuart, FL 34995
 772-286-1616
 File Number: 20-101
 Will Call No.: CH Box #39

Parcel Identification No. 05-38-41-001-000-00791.50000

\$850,000.00

[Space Above This Line For Recording Data]

Warranty Deed

(STATUTORY FORM - SECTION 689.02, F.S.)

This Indenture made this 2nd day of November, 2020 between Michael Braid whose post office address is 45 SW Seminole Street, Office, Stuart, FL 34994 of the County of Martin, State of Florida, grantor*, and Dale E. Alexander, a single man whose post office address is P.O. Box 292, Stuart, FL 34995 of the County of Martin, State of Florida, grantee*,

Witnesseth that said grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said grantee, and grantee's heirs and assigns forever, the following described land, situate, lying and being in Martin County, Florida, to-wit:

PARCEL NO. 1: That part of the Lot 133, H. W. Bessey Addition to the Town of Stuart, Florida according to plat thereof recorded in Plat Book 2, page 14, public records of Palm Beach (now Martin) County, Florida, described as follows: 'Being sixty five feet of land taken from the rear of said lot number 133, commencing at the corner of lots numbered 133, 134, 80 and 81 in said H. W. Bessey Addition and running along the division line between lots numbers 133 and 81 to the line between lots numbered 133 and 132, thence running southerly along the line between lots number 133 and 132 sixty five feet, thence across lot number 133 in a line parallel with the line between lots number 133 and 81 and sixty five feet distant therefrom to lot number 134, thence northerly along the line between lots 133 and 134 to the place of beginning, and being a piece of land sixty five feet long and the width of the rear of lot number 133, and all being in lot number 133 and the rear or northerly end of said lot.

PARCEL NO. 2: That parcel of land in the H. W. Bessey Addition to the Town of Stuart, Florida, according to plat thereof recorded in Plat Book 2, page 14, public records of Palm Beach (now Martin) County, Florida, described as follows: - Commencing at a point on the lot line between lots number 80 and 81, one hundred feet distant from the northeast corner of lot number 80, thence running southeasterly along said lot line between lots number 80 and 81 and lots number 133 and 134, fifty feet, thence southwesterly and on a line parallel with Cleveland Avenue and one hundred and fifty feet, therefrom to St. Lucie Crescent; thence northwesterly along St Lucie Crescent fifty feet; thence northeasterly on a line parallel with Cleveland Avenue and one hundred feet therefrom to the place of beginning and being a strip of land fifty feet wide extending from St. Lucie Crescent to the boundary lines between lots number 80, 134 and 81, 133, fifteen feet of said strip of land being taken from lots number 134 and 135 and thirty five feet from lots number 79 and 80.

PARCEL NO. 3: That part of the H. W. Bessey Addition to the Town of Stuart, Florida, according to plat thereof recorded in Plat Book 2, page 14, public records of Palm Beach (now Martin) County,

EXHIBIT
 PAGE 1 OF 2 PAGES DoubleTime®

FINAL ORDER OF VARIANCE APPROVAL – Dale Alexander lot – 823 SW St. Lucie Crescent

Florida, commencing at a point in St Lucie Crescent fifteen feet southerly from the southwest corner of lot 79; thence running easterly parallel with the southerly line of lots 79 and 80 and fifteen feet distant therefrom to the easterly line of lot 134; thence southerly on the line between lots 134 and 133 fifty feet; thence westerly parallel with the southerly line of lots 79 and 80, and sixty five feet distant from said lots 79 and 80 to St. Lucie Crescent; thence northerly along St. Lucie Crescent to the place of beginning; being a strip of land fifty feet wide extending across lots 134 and 135 from St. Lucie Crescent to the boundary line between lots 133 and 134.

Grantor warrants that at the time of this conveyance, the subject property is not the Grantor's homestead within the meaning set forth in the constitution of the state of Florida, nor is it contiguous to or a part of homestead property. Grantor's residence and homestead address is 84 North Sewall's Point Road, Stuart, FL 34996

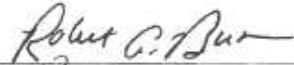
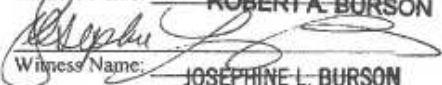
Subject to taxes for 2020 and subsequent years; covenants, conditions, restrictions, easements, reservations and limitations of record, if any.

and said grantor does hereby fully warrant the title to said land, and will defend the same against lawful claims of all persons whomsoever.

* "Grantor" and "Grantee" are used for singular or plural, as context requires.

In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

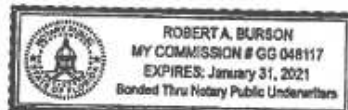

 Witness Name: **ROBERT A. BURSON**

 Witness Name: **JOSEPHINE L. BURSON**

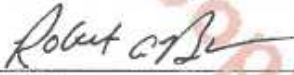
 (Seal)
 Michael Braid

State of Florida
 County of Martin

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 2nd day of November, 2020 by Michael Braid, who ☒ is personally known or ☐ has produced a driver's license as identification.

[Notary Seal]




 Notary Public

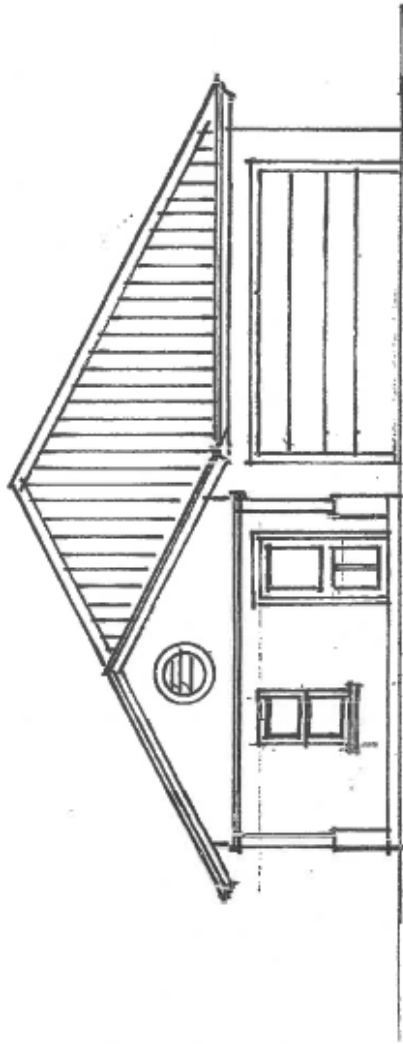
ROBERT A. BURSON

Printed Name:

My Commission Expires:

1-31-2021

FINAL ORDER OF VARIANCE APPROVAL – Dale Alexander lot – 823 SW St. Lucie Crescent



DALE ALEXANDER
FRONT ELEVATION 12/9/2020

EXHIBIT 3
PAGE 2 OF 3 PAGES

FINAL ORDER OF VARIANCE APPROVAL – Dale Alexander lot – 823 SW St. Lucie Crescent

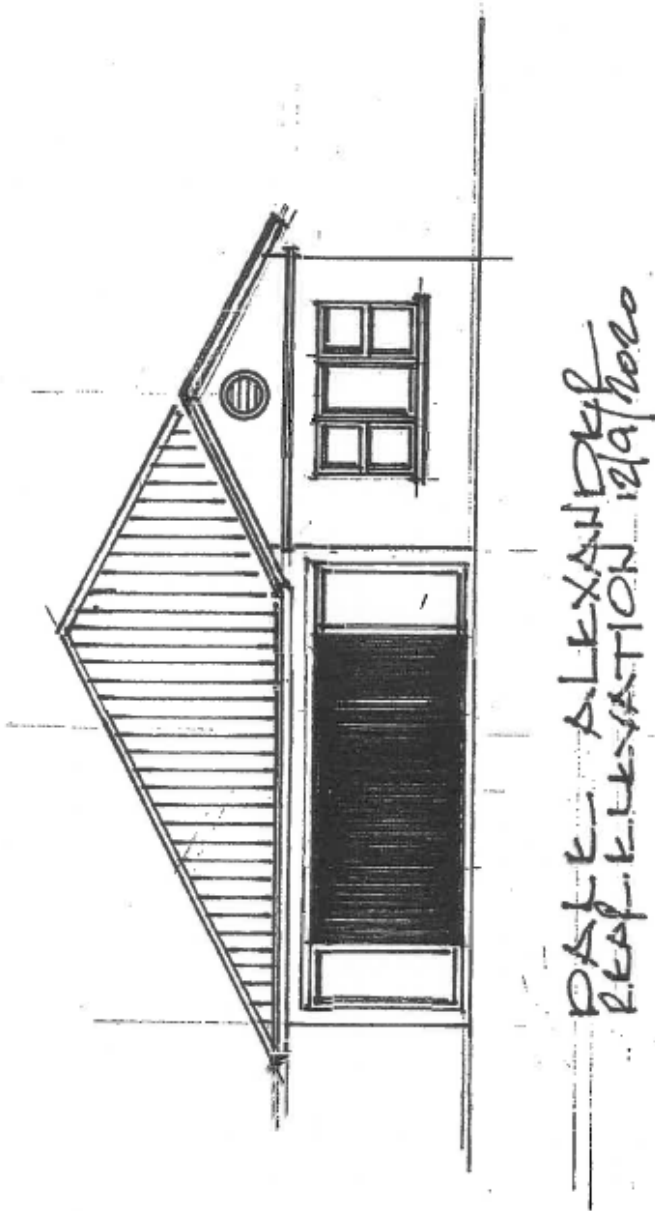


EXHIBIT 3
PAGE 3 OF 3 PAGES



Prepared by and return to:

Robert A. Burson
Attorney at Law
Robert A. Burson, P.A.
Post Office Box 1620
Stuart, FL 34995
772-286-1616
File Number: 20-101
Will Call No.: CH Box #39

Parcel Identification No. 05-38-41-001-000-00791.50000

\$950,000.00

[Space Above This Line For Recording Data]

Warranty Deed

(STATUTORY FORM - SECTION 689.02, F.S.)

This Indenture made this 2nd day of November, 2020 between Michael Braid whose post office address is 45 SW Seminole Street, Office, Stuart, FL 34994 of the County of Martin, State of Florida, grantor*, and Dale E. Alexander, a single man whose post office address is P.O. Box 292, Stuart, FL 34995 of the County of Martin, State of Florida, grantee*,

Witnesseth that said grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said grantee, and grantee's heirs and assigns forever, the following described land, situate, lying and being in Martin County, Florida, to-wit:

PARCEL NO. 1: That part of the Lot 133, H. W. Bessey Addition to the Town of Stuart, Florida according to plat thereof recorded in Plat Book 2, page 14, public records of Palm Beach (now Martin) County, Florida, described as follows: Being sixty five feet of land taken from the rear of said lot number 133, commencing at the corner of lots numbered 133, 134, 80 and 81 in said H. W. Bessey Addition and running along the division line between lots numbers 133 and 81 to the line between lots numbered 133 and 132, thence running southerly along the line between lots number 133 and 132 sixty five feet, thence across lot number 133 in a line parallel with the line between lots number 133 and 81 and sixty five feet distant therefrom to lot number 134, thence northerly along the line between lots 133 and 134 to the place of beginning, and being a piece of land sixty five feet long and the width of the rear of lot number 133, and all being in lot number 133 and the rear or northerly end of said lot.

PARCEL NO. 2: That parcel of land in the H. W. Bessey Addition to the Town of Stuart, Florida, according to plat thereof recorded in Plat Book 2, page 14, public records of Palm Beach (now Martin) County, Florida, described as follows: - Commencing at a point on the lot line between lots number 80 and 81, one hundred feet distant from the northeast corner of lot number 80, thence running southeasterly along said lot line between lots number 80 and 81 and lots number 133 and 134, fifty feet, thence southwesterly and on a line parallel with Cleveland Avenue and one hundred and fifty feet, therefrom to St. Lucie Crescent; thence northwesterly along St Lucie Crescent fifty feet; thence northeasterly on a line parallel with Cleveland Avenue and one hundred feet therefrom to the place of beginning and being a strip of land fifty feet wide extending from St. Lucie Crescent to the boundary lines between lots number 80, 134 and 81, 133, fifteen feet of said strip of land being taken from lots number 134 and 135 and thirty five feet from lots number 79 and 80.

PARCEL NO. 3: That part of the H. W. Bessey Addition to the Town of Stuart, Florida, according to plat thereof recorded in Plat Book 2, page 14, public records of Palm Beach (now Martin) County,

Florida, commencing at a point in St Lucie Crescent fifteen feet southerly from the southwest corner of lot 79; thence running easterly parallel with the southerly line of lots 79 and 80 and fifteen feet distant therefrom to the easterly line of lot 134; thence southerly on the line between lots 134 and 133 fifty feet; thence westerly parallel with the southerly line of lots 79 and 80, and sixty five feet distant from said lots 79 and 80 to St. Lucie Crescent; thence northerly along St. Lucie Crescent to the place of beginning; being a strip of land fifty feet wide extending across lots 134 and 135 from St. Lucie Crescent to the boundary line between lots 133 and 134.

Grantor warrants that at the time of this conveyance, the subject property is not the Grantor's homestead within the meaning set forth in the constitution of the state of Florida, nor is it contiguous to or a part of homestead property. Grantor's residence and homestead address is 84 North Sewall's Point Road, Stuart, FL 34996

Subject to taxes for 2020 and subsequent years; covenants, conditions, restrictions, easements, reservations and limitations of record, if any.

and said grantor does hereby fully warrant the title to said land, and will defend the same against lawful claims of all persons whomsoever.

* "Grantor" and "Grantee" are used for singular or plural, as context requires.

In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

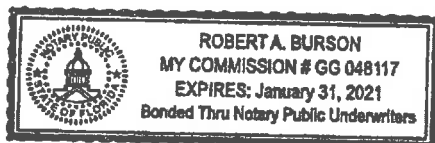
Robert A. Burson
 Witness Name: **ROBERT A. BURSON**
Josephine L. Burson
 Witness Name: **JOSEPHINE L. BURSON**

X Michael Braid (Seal)
 Michael Braid

State of Florida
 County of Martin

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 2nd day of November, 2020 by Michael Braid, who ☒ is personally known or ☐ has produced a driver's license as identification.

[Notary Seal]



Robert A. Burson
 Notary Public
 Printed Name: **ROBERT A. BURSON**
 My Commission Expires: 1-31-2021

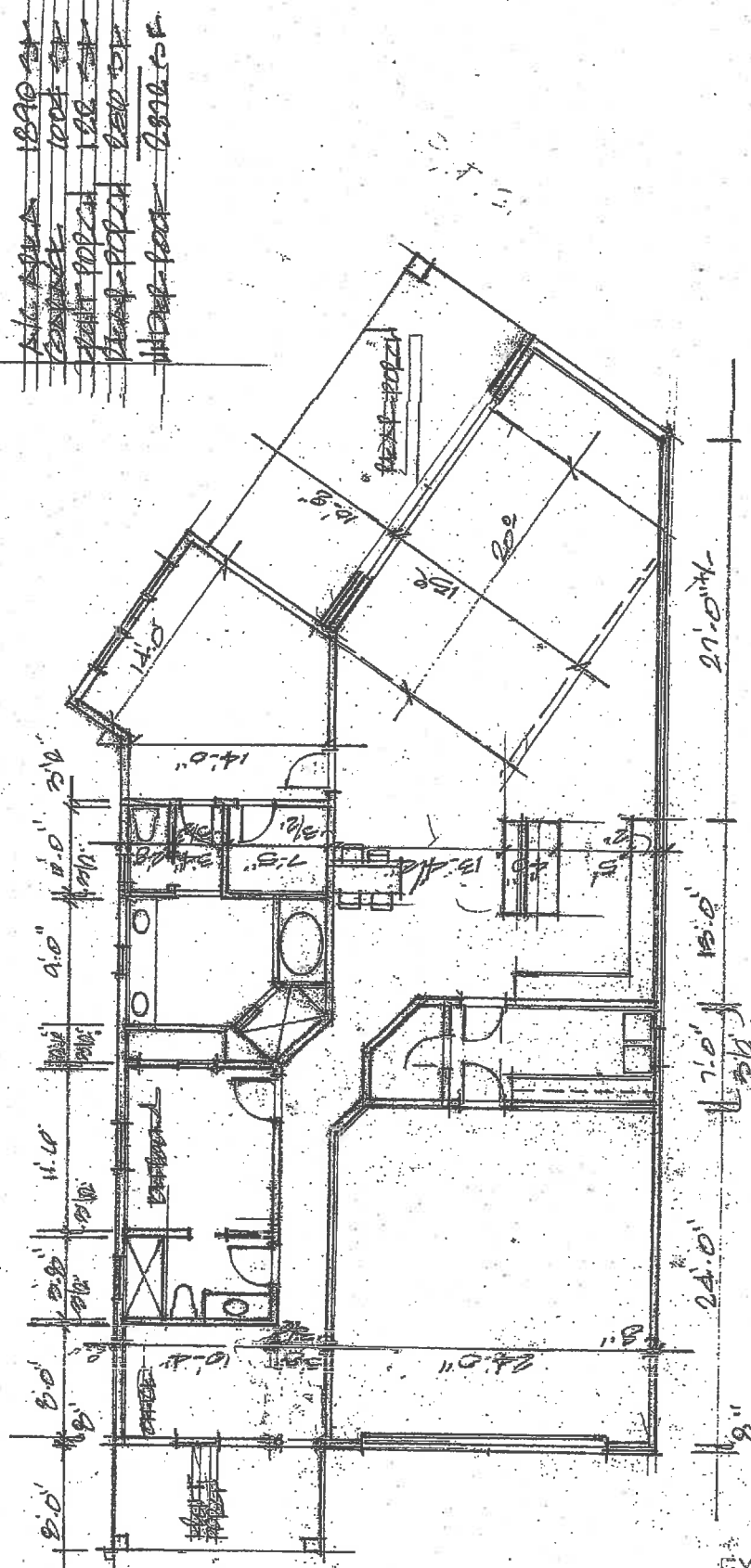
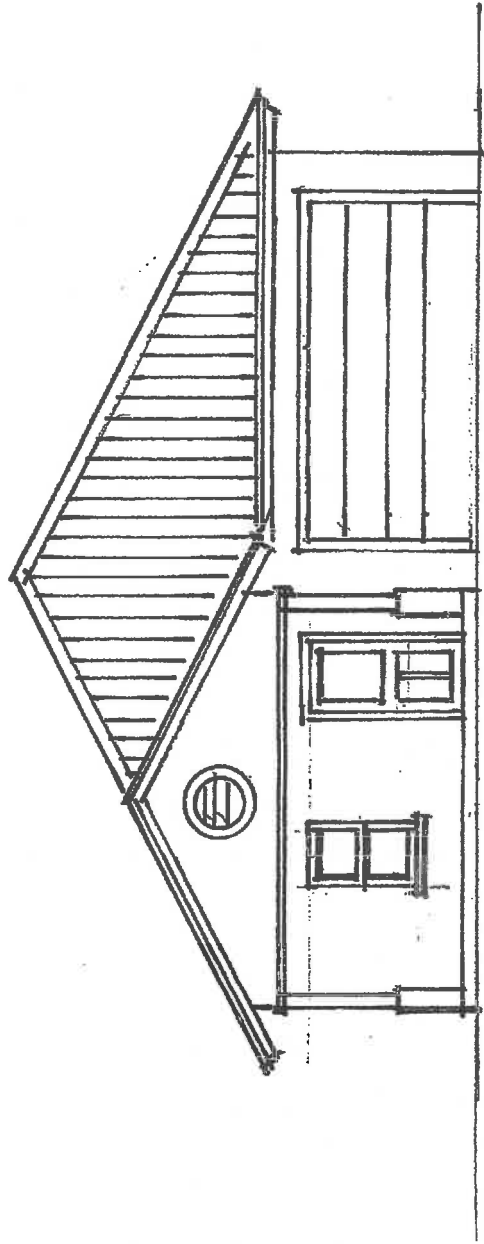
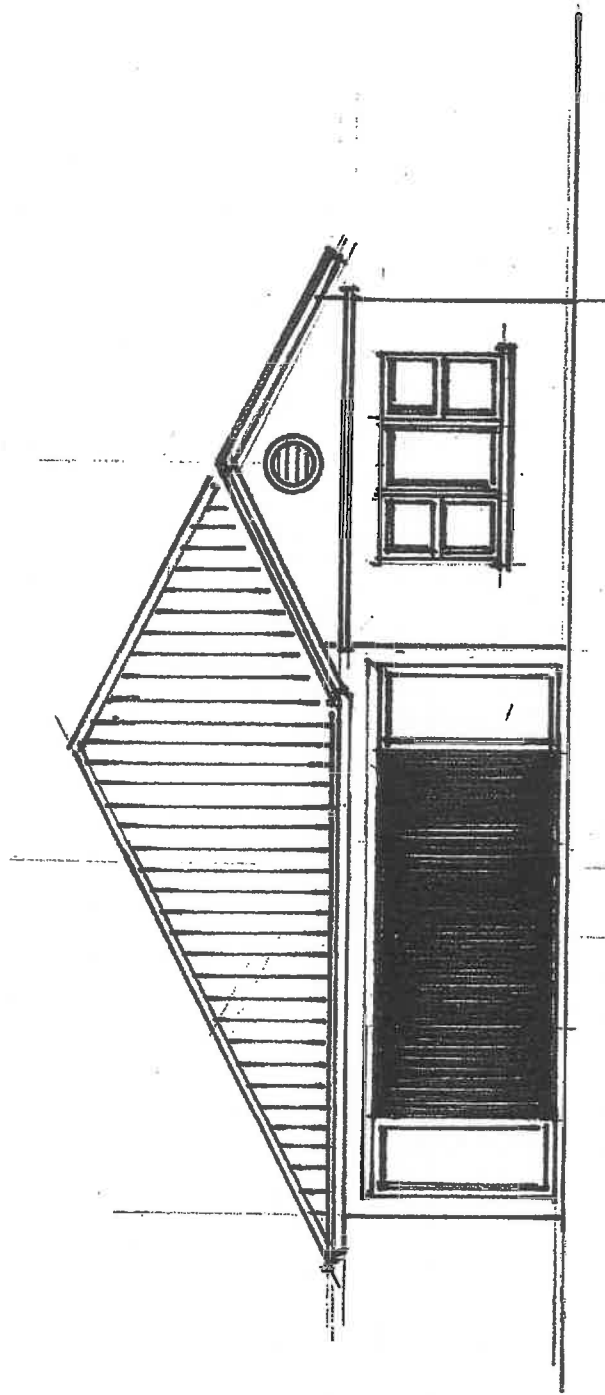


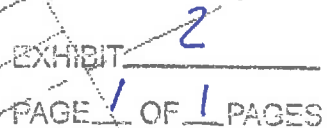
EXHIBIT 3
PAGE 1 OF 3 PAGES



PAUL ALEXANDER
FRONT ELEVATION 12/9/2020



PAUL ALEXANDER
REAL ESTATE 12/9/2020



Variance Application - Justification

RE: Dale Alexander (the "*Applicant*")
Portions of Lots 79, 80, 133, 134, and 135, H. W. Bessey Addition to the Town of Stuart, FL as described in deed recorded in OR Book 3170, page 665, public records of Martin County, FL (Copy of deed attached as **Exhibit 1**) (the "*Property*")

Applicant, as owner of the Property which is located at 823 S.W. St. Lucie Crescent, Stuart, FL, provides the following information and respectfully requests that the Stuart Florida Board of Adjustments grant the variances as described below as to the Property.

01. **Lot Split.** Applicant requests that the Property be permitted to be split into 2 buildable lots (Lots 1 and 2) as shown on the site plan attached as **Exhibit 2** generally as follows (more exact dimensions and areas are as shown on the site plan):
 Lot 1 will be 50' wide, 121' deep, and contain 6,160 square feet.
 Lot 2 will be 50' minimum in width, 192' deep and contain 10,172 square feet.
02. **Lot Size Variance.** R-1 zoning requires buildable lots to have a minimum of 7,500 square feet and 75' width. Lots with widths of less than 75' and lots smaller than 7,500 square feet are neither unusual nor inappropriate for this area of the City.
03. **Setback Variance.** The proposed Lots will require a variance of the side setback requirements from 7.5 feet to 5 feet. This allows a more reasonable 40' of lot width to be used for residences rather than the 35' required under the zoning requirements.
04. **Applicant's Planned Use of the Property.**

Lot 2. Applicant will build his primary residence on Lot 2 generally in accordance with the plans attached as **Exhibit 3**. He will begin the permitting and construction process soon after the approval of the variances requested in this application.

Lot 1. Applicant plans on incorporating Lot 1 into his yard for the foreseeable future. At some time Applicant may elect to sell Lot 1 to a third party, build a second home on Lot 1, or otherwise use Lot 1 as permitted by the City of Stuart.
05. **Prior Variances on the Property.** In 2015, the City Adjustment Board previously provided variances on the Property to create 2 equal sized lots and to allow 5' side setbacks. The difference in this application is that the 2 lots will not be of equal size. The then existing improvements to the Property have been removed so that the Property is now vacant land.



Dale Alexander
December 22, 2020

**BEFORE THE BOARD OF ADJUSTMENT
CITY OF STUART, FLORIDA**

Case #Z15050003

In re: The Code Variance Application of
Michael Braid
823 SW St. Lucie Crescent
Stuart, FL 34996

FINAL ORDER OF VARIANCE APPROVAL

THIS CAUSE came for hearing before the Board of Adjustment for the City of Stuart, Florida, at a regular set hearing at **5:30 PM on May 28, 2015**, at the City Commission Chambers, 121 S.W. Flagler Avenue, Stuart, Florida; and the Board, having considered the sworn testimony and other evidence presented by the City staff, the Petitioner, and any Interveners, finds as follows:

1. Notice of the hearing was provided as required by the Stuart Land Development Code (LDC). Notice was not challenged by any party at the hearing, and the Board of Adjustment has jurisdiction over this case as provided in the Sec. 8.04.01, LDC, *et seq.*

2. The parties were represented by **Thomas Reetz**, Senior Planner, **Michael Braid**, owner and **Don Cuozzo**, owner's representative, who made appearances.

3. **Thomas Reetz**, of the City Development Department, testified on behalf of the City that the Petitioner is **Michael Braid**, the title owner of the real property at **823 SW St. Lucie Crescent, Stuart, Florida**, and having a legal description as found within the Boundary Survey attached '**Exhibit A**'.

4. **Thomas Reetz** indicated the Subject Property is located at **823 SW St. Lucie Crescent, Stuart, Florida**, and is zoned **R-1 Residential – Single Family General**, with a Future Land Use designation of **Low Density Residential**. The Future Land Use and Zoning categories were not challenged by any party at the hearing.

5. The Petitioner's representative **Don Cuozzo**, gave testimony, and indicated a desire for the property to be developed as two individual lots with less than a

FINAL ORDER OF VARIANCE APPROVAL - 823 SW St. Lucie Crescent

minimum of 75 feet in lot width, as required by current code, in order to allow for **two separate buildable lots**, as depicted in **'Exhibit B'**. **Mr. Cuozzo** also indicated the residences will have a maximum of 2300 livable square feet with a Key West – Bermuda architectural style.

6. **Don Cuozzo** requested the following reductions to the minimum code requirements at the hearing to allow for two individual buildable lots.

- a. **The minimum R-1 lot width of 75 feet reduced to 50 feet for lot 1 and 50.33 feet for lot 2.**
- b. **The minimum side building setback of 7.5 feet reduced to 5 feet for lots 1 & 2.**

7. **Thomas Reetz** gave testimony and analyzed the case, and indicated the petition is consistent with the City's Comprehensive Plan, and meets the procedural requirements of the law. The testimony concluded by recommending that the board of adjustments consider the Final Order to allow for the variance, subject to the following conditions:

- a. The Subject Property is granted a relief from the Land Development Regulations as demonstrated in the table below:

Land Development Regulations vs Variance Request	
R-1 Zoning Requirements	Proposed Development Standards
Minimum Lot Area (sq. feet) = 7,500	Proposed Lot Area Lot 1 (sq. feet) = 7,988 Proposed Lot Area Lot 2 (sq. feet) = 8,344
Minimum Lot Width (feet) = 75'	Proposed lot width Lot 1 (feet) = 50' Proposed lot width Lot 2 (feet) = 50.3'
Maximum Impervious Surface Coverage = 50%	Proposed Impervious Surface Coverage Lot 1 = 28% Proposed Impervious Surface Coverage Lot 2 = 27%
Minimum Front Setback (feet) = 25'	Proposed Front setback = Not provided
Side Setbacks (feet) = 7.5'	Proposed Side setbacks Lot 1 (feet) = 5' Proposed Side setbacks Lot 2 (feet) = 5'
Rear Setback (feet) = 20'	Proposed Rear setback (feet) = Not provided
Maximum Height (feet) = 45'	Proposed Height (feet) = Not provided

- b. A survey of the subject property shall be submitted to the city's Development Department defining the two lots by November 28, 2015; otherwise the variance relief granted in this Final Order shall be void.

FINAL ORDER OF VARIANCE APPROVAL - 823 SW St. Lucie Crescent

- c. Parcel control numbers shall be assigned to each lot by the Martin County's property appraiser by November 28, 2015, otherwise the variance relief granted in this Final Order shall be void.

9. All subsequent Lessees and Owners shall be bound to the terms of this Administrative Variance, and this Administrative Variance shall carry forward and "run with the land" unless later released by the City Development Director, or as otherwise provided by law.

10. At the conclusion of the evidence and any follow up questioning by the Board Members, brief summaries were made by the Petitioner. The Board then entered into deliberation, and discussed the following:

Board Member _____ offered a motion to approve the variance(s). The motion was seconded by Board Member _____ and upon being put to a roll call vote, the vote was as follows:

BONNIE LANDRY, CHAIR
DR. E.E. GRIFFITH, VICE-CHAIR
DONNA M. ROLLINS, MEMBER
MARK MATHES, MEMBER
HOWARD GILMAN, MEMBER

YES	NO	ABSENT

ADOPTED this 28th day of May, 2015.

ATTEST:

By: _____
 MICHELLE VICAT
 BOARD SECRETARY

 CHAIR

APPROVED AS TO FORM AND CORRECTNESS:

 MIKE MORTELL
 CITY ATTORNEY

Exhibit A

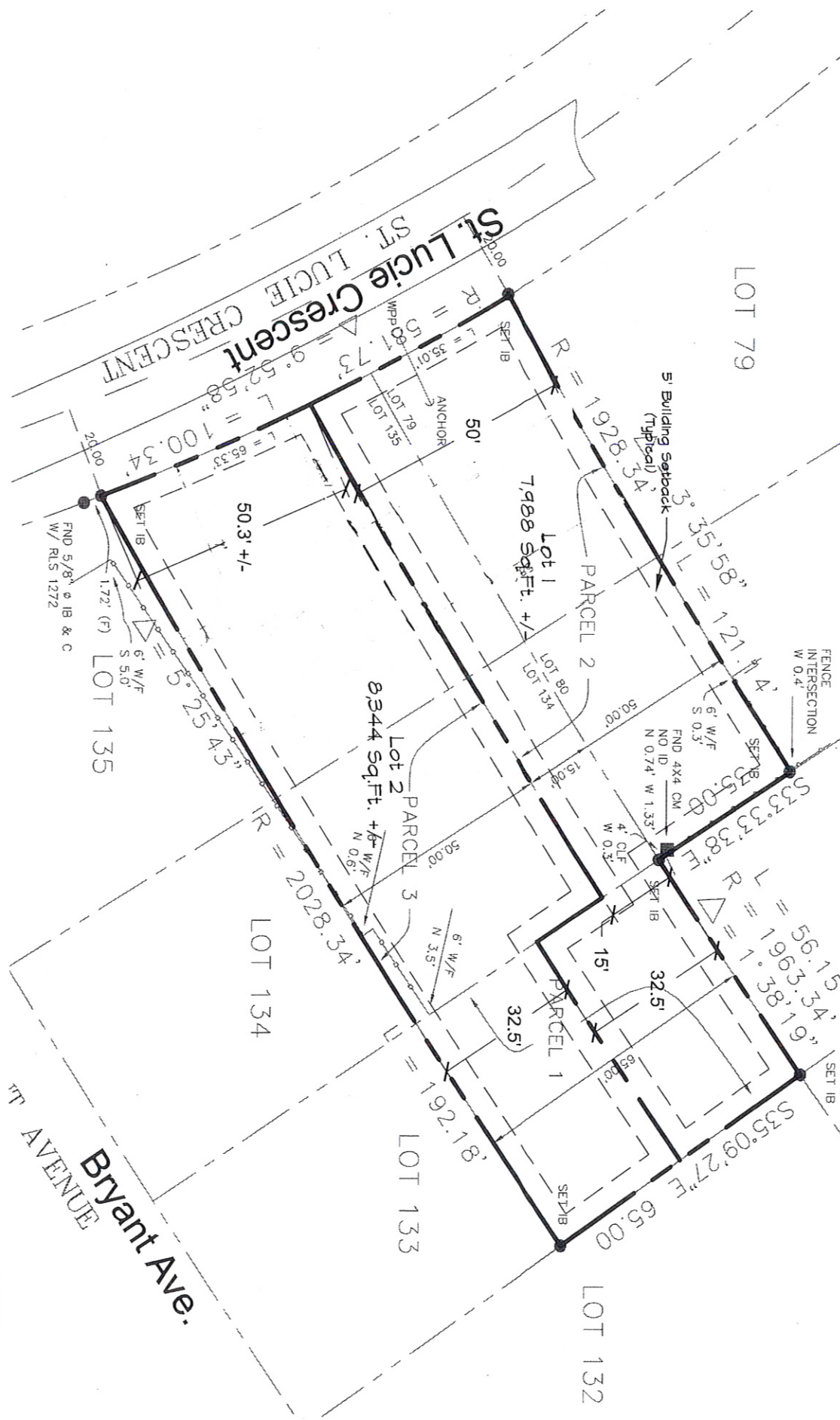
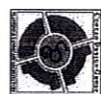
James E. Catteron sale to Michael Braid

PARCEL NO. 1: That part of the Lot 133, H. W. Bessey Addition to the Town of Stuart, Florida according to plat thereof recorded in Plat Book 2, Page 14, public records of Palm Beach (now Martin) County, Florida, described as follows: Being sixty five feet of land taken from the rear of said lot number 133, commencing at the corner of lots numbered 133, 134, 80 and 81 in said H. W. Bessey Addition and running along the division line between lots numbers 133 and 81 to the line between lots numbered 133 and 132, thence running southerly along the line between lots number 133 and 132 sixty five feet, thence across lot number 133 in a line parallel with the line between lots number 133 and 81 and sixty five feet distant therefrom to lot number 134, thence northerly along the line between lots 133 and 134 to the place of beginning, and being a piece of land sixty five feet long and the width of the rear of lot number 133, and all being in lot number 133 and the rear or northerly end of said lot.

PARCEL NO. 2: That parcel of land in the H. W. Bessey Addition to the Town of Stuart, Florida, according to plat thereof recorded in Plat Book 2, Page 14, public records of Palm Beach (now Martin) County, Florida, described as follows: — Commencing at a point on the lot line between lots number 80 and 81, one hundred feet distant from the northeast corner of lot number 80, thence running southeasterly along said lot line between lots number 80 and 81 and lots number 133 and 134, fifty feet, thence southwesterly and on a line parallel with Cleveland Avenue and one hundred and fifty feet, therefrom to St. Lucie Crescent; thence northwesterly along St. Lucie Crescent fifty feet; thence northeasterly on a line parallel with Cleveland Avenue and one hundred feet therefrom to the place of beginning and being a strip of land fifty feet wide extending from St. Lucie Crescent to the boundary lines between lots number 80, 134 and 81, 133, fifteen feet of said strip of land being taken from lots number 134 and 135 and thirty five feet from lots number 79 and 80.

PARCEL NO. 3: That part of the H. W. Bessey Addition to the Town of Stuart, Florida, according to plat thereof recorded in Plat Book 2, Page 14, public records of Palm Beach (now Martin) County, Florida, commencing at a point in St. Lucie Crescent fifteen feet southerly from the southwest corner of lot 79; thence running easterly parallel with the southerly line of lots 79 and 80 and fifteen feet distant therefrom to the easterly line of lot 134; thence southerly on the line between lots 134 and 133 fifty feet; thence westerly parallel with the southerly line of lots 79 and 80, and sixty five feet distant from said lots 79 and 80 to St. Lucie Crescent; thence northerly along St. Lucie Crescent to the place of beginning; being a strip of land fifty feet wide extending across lots 134 and 135 from St. Lucie Crescent to the boundary line between lots 133 and 134.

Braid St. Lucie Crescent Site Plan



Sec. 8.05.02. - Limitations on granting variances.

- A. *Initial determination.* The board of adjustment shall have the power to authorize in specific cases such variances from the provisions set forth in subsection 8.04.01.A., which will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of certain parts of this code will, in an individual case, result in unnecessary hardship, so that the spirit of the code shall be observed, public safety and welfare secured, and substantial justice done. Such variance may be granted in such case of unnecessary hardship upon the following findings by the board of adjustment.
- B. *Required findings.* The need for the proposed variance is attributable to unique characteristics of the property either as to the land or as to any improvements thereon, or both, and the proposed variance, if granted, will not:
 - 1. Authorize any use of the property that is not allowed as a permitted use or a use allowed by conditional use in the district in which the property is located; and
 - 2. Allow a density or intensity of use that exceeds the maximum density or intensity that is permitted in the district in which the property is located; and
 - 3. Result in a verifiable reduction of the property values of any adjacent or nearby properties; and
 - 4. Cause a detrimental effect in the supply of light and air to adjacent properties; and
 - 5. Cause a detrimental effect with respect to drainage of the subject property as well as adjacent properties; and
 - 6. Cause an increase of traffic on adjacent or nearby roads to levels that are not usual for the types of uses in the neighborhood; and
 - 7. Cause any threat to public safety in any manner whatsoever; and
 - 8. Cause any threat to the health or general welfare of the inhabitants of the city.
- C. A variance shall not be granted that exceeds the minimum variance to the strict application of the provisions of this Code necessary to alleviate the unnecessary hardship.